

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

J&J SPORTS PRODUCTIONS, INC.,

Plaintiff,

v.

BONITO MICHOACAN, INC.,

Defendant.

Case No: 2:12-cv-01519-RCJ-CWH

ORDER

Currently before the Court is Plaintiff J&J Sports Productions, Inc.’s Motion for Entry of Default Judgment Against Defendant Bonito Michoacan, Inc. Pursuant to Fed. R. Civ. P. 55(b)(2) (#18). Plaintiff has also moved for attorney’s fees and costs incurred, as well as statutory, compensatory, punitive and exemplary damages. (Amend. Compl. (#11) at 5-8).

BACKGROUND

On August 27, 2012, Plaintiff J&J Sports Productions, Inc. filed a complaint in this Court based on federal question jurisdiction against Defendant Bonito Michoacan, Inc. (Compl. (#1) at 1). On October 3, 2012, Defendant filed an answer. (Answer (#6)). On November 20, 2012, the parties filed a joint stipulation to permit Plaintiff to amend its complaint to include an additional cause of action and to allow Defendant 20 days from the entry of the Court’s order to respond. (Stip. to Amend (#9)). Judge Carl W. Hoffman granted the stipulation and Plaintiff filed the amended complaint on November 26, 2012. (Order on Stip. (#10); Am. Compl. (#11)).

Plaintiff’s amended complaint alleged that Plaintiff had the exclusive national commercial distribution (closed-circuit) rights to telecast nationwide “200: Celebrate and Dominate: Shane Mosley v. Sergio Mora Championship Fight Program” on September 18, 2010, and “Tactical Warfare: Manny Pacquiao v. Antonio Margarito, WBO Light Middleweight Championship Fight Program” on November 13, 2010 (collectively referred to as “*Programs*”). (Am. Compl. (#11) at 4). The amended complaint alleged that Defendant had unlawfully intercepted, received,

published, divulged, displayed, and/or exhibited those programs at the time of their transmission at Defendant's commercial establishment. (*Id.* at 5). Further, the amended complaint alleged that Defendant's acts were willful, malicious, egregious, and intentionally designed to harm Plaintiff by causing financial loss. (*Id.* at 7). As a result, the amended complaint alleged the following causes of action: (1) violation of 47 U.S.C. §605; (2) violation of 47 U.S.C. §553; and (3) conversion. (*Id.* at 4-6). Accordingly, the amended complaint prayed for the following relief: (1) \$110,000 for each violation of count I, and attorneys fees and costs; (2) \$60,000 for each violation of count II, and attorneys fees and costs; and (3) compensatory damages in an amount according to proof for each violation of count III, exemplary damages, punitive damages, and attorneys fees and costs. (*Id.* at 7-8).

On January 17, 2013, Plaintiff filed a notice to plead informing both Defendant and Defendant's counsel that they were required to answer or otherwise plead regarding the amended complaint within three days to avoid a default. (Notice to Plead (#12)). Defendant did not file a response. (*See generally* Docket Sheet). On January 28, 2013, Plaintiff filed a motion for entry of clerk's default on the amended complaint. (Mot. for Clerk's Default (#13)). The clerk's office entered default as to Defendant on March 8, 2013. (Default (#17)). Plaintiff then filed a motion for default judgment with this Court on April 17, 2013. (Mot. for Default Judg. (#18)).

On June 27, 2013, Plaintiff filed a proposed default judgment against Defendant. (Prop. Default Judg. (#19)). The proposed default judgment recommended that the Court award Plaintiff the following damages: (1) \$55,500 for the violation of 47 U.S.C. §605(e)(3)(c)(i)(II); (2) \$10,000 for the violation of 47 U.S.C. §605(e)(3)(c)(ii); (3) \$4,400 for conversion; and (4) \$1,200 for attorney's fees (calculated by four hours at \$300 per hour). (*Id.* at 1-2). The amount proposed totaled \$70,600. (*Id.* at 2).

LEGAL STANDARD

Pursuant to Fed. R. Civ. P. 55(a), "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. P. 55(a). Fed. R. Civ. P. 55(b)(2) provides that a court may enter a default judgment after the party seeking default

1 applies to the clerk of the court as required by subsection (a) of this rule. *See* Fed. R. Civ. P.
 2 55(b)(2); *see also* *TruSeal Technologies, Inc. v. Beijing Hulali Architecture Decoration Co.,*
 3 *Ltd.*, 2:08-CV-1338-JCM-LRL, 2010 WL 5387585, at *1 (D. Nev. Dec. 21, 2010).

4 DISCUSSION

5 On March 8, 2013, the Clerk of the Court entered default against Defendant for Defendant's
 6 failure to answer Plaintiff's amended complaint or otherwise defend the instant lawsuit. (Default
 7 (#17)). Plaintiff moves this Court for an entry of default judgment against Defendant based on
 8 Fed. R. Civ. P. 55(b)(2). (Mot. for Default Judg. (#18)).

9 I. Default Judgment

10 The choice whether to enter a default judgment lies within the discretion of the district court.
 11 *Aldabe v. Aldabe*, 616 F.2d 1089, 1092 (9th Cir. 1980). Default judgments are usually
 12 disfavored because cases should be decided on their merits whenever possible. *Pena v. Seguros*
 13 *La Comercial, S.A.*, 770 F.2d 811, 814 (9th Cir. 1985); *Eitel v. McCool*, 782 F.2d 1470, 1472
 14 (9th Cir. 1986). In the determination of whether to grant a default judgment, the trial court
 15 generally considers the seven factors articulated in *Eitel*. 782 F.2d at 1471-72. These factors
 16 are: (1) the possibility of prejudice to the plaintiff, (2) the merits of the claims, (3) the sufficiency
 17 of the complaint, (4) the amount of money at stake, (5) the possibility of a dispute concerning
 18 material facts, (6) whether default was due to excusable neglect, and (7) the policy favoring a
 19 decision on the merits. *Id.* In applying the *Eitel* factors, the factual allegations of the complaint,
 20 except those relating to damages, should be taken as true. *Geddes v. United Fin. Group*, 559
 21 F.2d 557, 560 (9th Cir. 1977); *see* Fed. R. Civ. P. 8(d).

22 The first *Eitel* factor weighs in favor of granting Plaintiff's motion because Plaintiff would be
 23 prejudiced by an unfavorable decision. Defendant has not answered or otherwise responded to
 24 Plaintiff's amended complaint. (*See generally* Docket Sheet). Due to the likelihood that
 25 Defendant will continue to ignore Plaintiff's request, Plaintiff would likely not be allowed to
 26 litigate its claims should this Court deny the motion. *See United States v. Twenty-Four*
 27 *Thousand Dollars (\$24,000) in United States Currency*, 2:09-CV-2319-LRH-RJJ, 2010 WL
 28 2695637, at *2 (D. Nev. July 2, 2010). In that event, Plaintiff would be "without other recourse

1 for recovery.” *Nevada Prop. 1 LLC v. Newcosmopolitanlasvegas.com*, 2:12-CV-866-JCM-NJK,
2 2013 WL 167755, at *2 (D. Nev. Jan. 15, 2013).

3 The second and third *Eitel* factors favor a default judgment if Plaintiff’s claims are
4 meritorious and the complaint sufficiently states a claim for relief consistent with the liberal
5 pleading standards of Fed. R. Civ. P. 8. *See* Fed. R. Civ. P. 8; *see also Danning v. Lavine*, 572
6 F.2d 1386, 1388-89 (9th Cir. 1978). Plaintiff’s amended complaint states plausible claims for
7 relief for violations of the Communications Act of 1934, as amended, 47 U.S.C. §605; the Cable
8 & Television Consumer Protection and Competition Act of 1992, as amended, 47 U.S.C. §553;
9 and tortious conversion of the *Programs* for Defendant’s own use and benefit. (*See* Am. Compl.
10 (#11) at 4-7; *see also* Mot. for Default Judg. (#18) at 1). Because the Court assumes that all
11 factual allegations of the complaint are true, this satisfies the second *Eitel* factor. As to the third,
12 Plaintiff’s amended complaint is well pleaded as it identifies Defendant, enumerates Plaintiff’s
13 exclusive contractual right to *Programs*, describes the steps Defendant took to knowingly
14 intercept *Programs*, and proposes causes of action for Defendant’s conduct. (*See* Am. Compl.
15 (#11)).

16 Under the fourth *Eitel* factor, the Court should consider the amount of money at stake in
17 relation to the seriousness of Defendant’s conduct. *Newcosmopolitanlasvegas.com*, at *2. The
18 sum of money Plaintiff seeks in its amended complaint is relatively large, exceeding \$170,000.
19 (Am. Compl. (#11) at 7-8). However, the relief sought is appropriate according to the relevant
20 statutes. Specifically, 47 U.S.C. §605(e)(3)(C)(i)(II) provides that, in the event of an
21 unauthorized publication or use of communications, the party aggrieved is entitled to statutory
22 damages in an amount of no more than \$10,000, and 47 U.S.C. §605(e)(3)(C)(ii) provides that a
23 willful violation permits a court to increase the award of damages by no more than \$100,000. 47
24 U.S.C. §605(e)(3)(C)(i)(II) (West); 47 U.S.C. §605(e)(3)(C)(ii) (West). In addition, 47 U.S.C.
25 §553(c)(3)(A)(ii) provides that, in the event of an unauthorized reception of cable service, the
26 party aggrieved may recover statutory damages in an amount no more than \$10,000, and 47
27 U.S.C. §553(c)(3)(B) provides that a willful violation justifies an enhancement by no more than
28 \$50,000. 47 U.S.C. §553(c)(3)(A)(ii) (West); 47 U.S.C. §553(c)(3)(B) (West). Given the

1 amended complaint's allegations of Defendant's unlawful interception and transmission of
2 *Programs*, and the alleged willful nature of Defendant's misconduct, the amount of money at
3 stake is commensurate to allegations. (*See* Am. Compl. (#11) at 3-5). However, Plaintiff can
4 recover damages under either §605 or §553, but not both.¹ Therefore, the damages will likely be
5 reduced, should the Court find that damages are appropriate. This factor weighs neither in favor
6 nor against granting default judgment.

7 The fifth *Eitel* factor favors default judgment. Given the sufficiency of the complaint and
8 Defendant's default, and the assumption that all well-pleaded factual allegations in the complaint
9 are true, there is no genuine dispute of material facts that would preclude granting Plaintiff's
10 motion. *Newcosmopolitanlasvegas.com*, at *2.

11 The sixth *Eitel* factor weighs in Plaintiff's favor as well because the Court cannot reasonably
12 conclude that Defendant's default is due to excusable neglect. Defendant was properly served
13 with a copy of the amended complaint, by and through their counsel of record on November 21,
14 2012. (Mot. for Default Judg. (#18) at 1). Defendant failed to file an appropriate answer by its
15 December 11, 2012 deadline. (*Id.*). Therefore, Defendant's failure to respond cannot reasonably
16 be due to excusable neglect. *United States v. High Country Broadcasting Co., Inc.*, 3 F.3d 1244,
17 1245 (9th Cir. 1993) (finding that it was "perfectly appropriate" for the district court to enter
18 default judgment against a corporation that failed to appear in the action through licensed
19 counsel).

20 The final factor of the *Eitel* test weighs against granting default judgment. "Cases should be
21 decided upon their merits whenever reasonably possible." *Eitel*, 782 F.2d at 1472. But the mere
22 existence of Rule 55(b) indicates that this preference, standing alone, is not dispositive.
23 *Newcosmopolitanlasvegas.com*, at *2. Further, Defendant's failure to answer or otherwise
24 respond to the amended complaint "makes a decision on the merits impractical, if not
25 impossible." *Id.*

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¹ Please refer to discussion on pages 7-8.

1 Upon reviewing Plaintiff's motion and considering the *Eitel* factors as a whole, the Court
 2 concludes that the entry of default judgment is appropriate against Defendant. The Court now
 3 turns to the reasonableness of damages and relief sought in the default judgment.

4 Once the court clerk enters a default, the well-pleaded factual allegations of the complaint are
 5 taken as true, except for those allegations relating to damages. *Televideo Sys., Inc. v. Heidenthal*,
 6 826 F.2d 915, 917-18 (9th Cir. 1987). The party seeking default judgment is required to prove
 7 all damages sought in the complaint, and those damages may not "differ in kind from, or exceed
 8 in amount, what is demanded in the pleadings." Fed. R. Civ. P. 54(c); *see also Fullmer v.*
 9 *Brown*, 2:09-CV-01442-RCJ-PAL, 2010 WL 3860650, at *1 (D. Nev. Sept. 28, 2010). If
 10 sufficiently documented and detailed, damages claims may be determined by an accounting,
 11 declarations, or affidavits submitted by a plaintiff. *Fullmer*, at *1. Otherwise, a court reserves
 12 the right to order a full evidentiary hearing. Fed. R. Civ. P. 55(b)(2); *Geddes*, 559 F.2d at 560.

13 A. COUNT I

14 Count I of Plaintiff's amended complaint alleged that Plaintiff is entitled to statutory
 15 damages for each willful violation against the Defendant pursuant to the Communications Act of
 16 1934, as amended, 47 U.S.C. §605(e)(3)(C)(ii), as well as the recovery of full costs, including
 17 attorney's fees, pursuant to 47 U.S.C. §605(e)(3)(B)(iii). (Am. Compl. (#11) at 5, 7). The Act
 18 prohibits the unauthorized publication or use of communications. 47 U.S.C. §605 (West).
 19 Specifically, subsection (a) provides that "no person not being authorized by the sender shall
 20 intercept any radio communication and divulge or publish the existence, contents, substance,
 21 purport, effect, or meaning of such intercepted communication to any person." 47 U.S.C.
 22 §605(a) (West). Regarding damages, the party aggrieved may recover an award of statutory
 23 damages for each violation of subsection (a) in the amount of no less than \$1,000 and no more
 24 than \$10,000. 47 U.S.C. §605(e)(3)(C)(i)(II) (West). As an enhancement, if the violation was
 25 committed willfully or for financial gain, a court may increase the award of damages by no more
 26 than \$100,000 for each violation. 47 U.S.C. §605(e)(3)(C)(ii) (West). Finally, the statute
 27 provides that an aggrieved party shall collect reasonable attorney's fees. 47 U.S.C.
 28 §605(e)(3)(B)(iii) (West).

1 The amended complaint alleged that Defendant willfully intercepted, received, published,
 2 divulged, displayed and/or exhibited *Programs* at the time of their transmission, with “full
 3 knowledge” that such behavior was prohibited. (Am. Compl. (#11) at 5). Further, the amended
 4 complaint alleged that these actions resulted in financial benefit on Defendant’s part. (*Id.* at 3-5).
 5 Therefore, accepting the well-pleaded factual allegations as true, Plaintiff is entitled to \$110,000
 6 as the statutory maximum for Defendant’s violation of 47 U.S.C. §605(a), pursuant to 47 U.S.C.
 7 §605(e)(3)(C)(i)(II) for a base of \$10,000, and 47 U.S.C. §605(e)(3)(C)(ii) for an increase of
 8 \$100,000. *See* 47 U.S.C. §605 (West).

9 However, the Court declines to award damages due to inconsistencies within the amended
 10 complaint and throughout the docket. In the amended complaint, Plaintiff prayed for \$110,000
 11 “for each violation [of 47 U.S.C. §605] against the Defendant.”² (Am. Compl. (#11) at 7). The
 12 amended complaint asserts elsewhere that Plaintiff is entitled to only \$100,000 pursuant to 47
 13 U.S.C. §605. (*Id.* at 5). In addition, the damages recommended in the separately filed proposed
 14 default judgment against Defendant were inconsistent with those requested in Plaintiff’s
 15 amended complaint. (*Compare* Prop. Default Judg. (#19), *with* Am. Compl. (#11) at 7-8).
 16 Plaintiff’s proposed default judgment against Defendant suggests that the Defendant is liable to
 17 Plaintiff for a total of \$65,000 for the violation of 47 U.S.C. §605, broken down as \$55,500 for
 18 the violation of 47 U.S.C. §605(e)(3)(c)(i)(II), and \$10,000 for the violation of 47 U.S.C.
 19 §605(e)(3)(c)(ii). (Prop. Default Judg. (#19) at 1). Given that those two bases for recovery are
 20 not valid references to the statute, combined with several inconsistencies in Plaintiff’s requested
 21 relief, the Court declines to award statutory damages based on 47 U.S.C. §605 at this time. The
 22 Court grants Plaintiff 20 days from the date of this order to re-file a supplemental motion for
 23 default judgment that sets out the necessary proof to establish damages pursuant to Count I.

24
 25 ² Plaintiff’s amended complaint did not specify whether Defendant’s interception of the two
 26 separate telecasts on two different dates constituted two separate violations, but instead referred
 27 to the two telecasts as a combined “*Programs*.” (Am. Compl. (#11) at 4). Given this term used
 28 to refer to the offenses, combined with the request for the statutory maximum of one offense, the
 Court assumes that Plaintiffs have joined Defendant’s offenses into one violation for purposes of
 this suit. Accordingly, the Court would be inclined to find damages in the amount of \$110,000
 appropriate.

B. COUNT II

Count II of the amended complaint alleged that Plaintiff is entitled to a total of \$60,000 in statutory damages for Defendant's violation of 47 U.S.C. §553. (Am. Compl. (#11) at 6-7). The statute prohibits any person from intercepting any communications service offered over a cable system, unless specifically authorized to do so. 47 U.S.C. §553(a)(1) (West). Pursuant to 47 U.S.C. §553, a party aggrieved may recover statutory damages for all violations in an amount no less than \$250 and no more than \$10,000. 47 U.S.C. §553(c)(3)(A)(ii) (West). Further, the award may be increased by no more than \$50,000 for willful violations or those committed for financial gain. 47 U.S.C. §553(c)(3)(B) (West).

While neither the Ninth Circuit nor the District of Nevada have directly addressed this issue, the Second Circuit Court of Appeals has explored Congressional intent and determined that even if a defendant has violated both §605 and §553, the aggrieved party cannot recover damages under both statutes. *Int'l Cablevision, Inc. v. Sykes*, 997 F.2d 998, 1009 (2d Cir. 1993). Therefore, a court should grant damages under §605(e) instead of granting the lesser damages available under §553. *Id.* Taking the amended complaint's well-pleaded allegations as true, the Defendant is liable for willfully intercepting *Programs*, where Plaintiff had the exclusive private right to broadcast *Programs* pursuant to 47 U.S.C. §553. (Am. Compl. (#11) at 5-6). Therefore, Defendant is entitled to the statutory maximum of \$60,000 for Defendant's willful violation. Influenced by the persuasive precedent from the Second Circuit, this Court would be inclined to find that Plaintiff cannot recover under both Count I and Count II.

However, the question is moot at this time because another inconsistency exists between Plaintiff's amended complaint and the proposed default judgment. (*Compare* Am. Compl. (#11) at 5-6, *with* Prop. Default Judg. (#19)). The former prayed for \$60,000 in statutory damages, while the latter included no mention of a violation of 47 U.S.C. §553, and no request for damages pursuant to the statute. (*See* Prop. Default Judg. (#19)). In light of the inconsistency, this Court denies damages pursuant to 47 U.S.C. §553 at this time, allowing Plaintiff 20 days from the date of this order to re-file a supplemental motion for default judgment that sets out the necessary proof to establish damages pursuant to Count II.

1 **C. COUNT III**

2 Count III of Plaintiff's amended complaint alleged that Defendant tortuously obtained
3 possession of *Programs* and wrongfully converted the same for its own use and benefit. (Am.
4 Compl. (#11) at 6-7).

5 In Nevada, a conversion occurs whenever there is a serious interference to a party's rights in
6 his property. *Scaffidi v. United Nissan*, 425 F.Supp.2d 1159, 1168 (D. Nev. 2005). Conversion
7 is defined as an act of dominion "wrongfully exerted over another's personal property in denial
8 of, or inconsistent with his title or rights therein or in derogation, exclusion, or defiance of such
9 title or rights." *Ferreira v. P.C.H. Inc.*, 774 P.2d 1041, 1043 (Nev. 1989). Conversion does not
10 require a manual taking, but can be an unjustified claim of title to personal property. *Scaffidi*,
11 425 F.Supp.2d at 1168. In the event of a conversion, the injured party is entitled to full
12 compensation for his actual losses. *Winchell v. Schiff*, 193 P.3d 946, 950-951 (Nev. 2008). If
13 the record reflects that the injured party suffered lost business as a result of the conversion, then
14 the injured party is entitled to the value of lost business as compensation for actual losses. *Id.* at
15 951.

16 Because Plaintiff has purchased the exclusive nationwide commercial distribution rights to
17 *Programs*, and because Defendant has willfully intercepted *Programs*, the violation constitutes a
18 conversion. However, Plaintiff is required, as per the *Winchell* standard, to show proof of actual
19 losses suffered. Plaintiff provided no requested amount of relief in the amended complaint. (*See*
20 *generally* Am. Compl. (#11)). It was only in the proposed default judgment that Plaintiff
21 requested \$4,400 in damages for conversion. (Prop. Default Judg. (#19) at 1). Plaintiff provides
22 no affidavits to substantiate this amount. (*See generally* Docket Sheet; *see also* Am. Compl.
23 (#11)). The amended complaint alleged only that Plaintiff "expended substantial monies
24 marketing, advertising, promoting, administering, and transmitting the *Programs* to its
25 customers." (Am. Compl. (#11) at 4). It further alleged that Plaintiff was deprived the
26 commercial license fee to which Plaintiff was rightfully entitled and thereby subjected Plaintiff
27 to "great financial loss." (*Id.* at 7). However, the Court will not base damages on such
28 conclusory statements that lack evidentiary support. *See Fitzsimmons v. Rickenbacker Fin., Inc.*,

2:11-CV-1315-JCM-PAL, 2012 WL 3994477, at *3 (D. Nev. Sept. 11, 2012) (holding that plaintiff's statement that she was actually harmed "based on frustration, and confusion..." did not warrant damages because it was conclusory). Absent a proper request for relief and lack of proof, the Court denies all compensatory, exemplary and punitive damages pursuant to the conversion claim and permits Plaintiff 20 days from the date of this order to re-file a supplemental motion for default judgment that sets out the necessary proof to establish damages pursuant to Count III.

II. ATTORNEY'S FEES AND COSTS

A plaintiff that prevails on a claim under 47 U.S.C. §605 or 47 U.S.C. §553 is entitled to reasonable attorney's fees and costs. *See* 47 U.S.C. §605(e)(3)(B)(iii); *see also* 47 U.S.C. §553(c)(2)(C). However, even if a statute entitles Plaintiff to damages, Plaintiff must still show proof of the relief requested pursuant to Fed. R. Civ. P. 54 and Local Rules 54-1 through 54-16.

A motion for attorney's fees and related nontaxable expenses must be filed no later than 14 days after the entry of judgment. Fed. R. Civ. P. 54(d)(2)(B)(i). The motion must state the amount sought or provide a fair estimate. Fed. R. Civ. P. 54(d)(2)(B)(iii). Local Rule 54-16(b) further requires that the motion include the following components:

- (1) A reasonable itemization and description of the work performed;
- (2) An itemization of all costs sought to be charged as part of the fee award and not otherwise taxable pursuant to LR 54-1 through 54-15;
- (3) A brief summary of the following:
 - A. The results obtained and the amount involved;
 - B. The time and labor required;
 - C. The novelty and difficulty of the questions involved;
 - D. The skill requisite to perform the legal service properly;
 - E. The preclusion of other employment by the attorney due to acceptance of the case;
 - F. The customary fee;
 - G. Whether the fee is fixed or contingent;

- H. The time limitations imposed by the client or the circumstances;
 - I. The experience, reputation, and ability of the attorney(s);
 - J. The undesirability of the case, if any;
 - K. The nature and length of the professional relationship with the client;
 - L. Awards in similar cases; and,
- (4) Such other information as the Court may direct.

In addition, the motion for attorney's fees and costs must be accompanied by an affidavit from the attorney responsible for the billings in the case to authenticate the information contained in the motion, and to prove that the fees and costs sought are reasonable. LR 54-16(c). A failure to provide the documentation required by LR 54-16(b) and (c) in a motion for attorney's fees "constitutes a consent to the denial of the motion." LR 54-16(d).

Here, Plaintiff seeks attorney's fees pursuant to 47 U.S.C. §605(e)(3)(B)(iii) and 47 U.S.C. §553(c)(2)(C). (*See* Am. Compl. (#11) at 5-6). While a recovery under 47 U.S.C. §605 would automatically entitle Plaintiff to recover attorney's fees, Plaintiff failed to file a motion for attorney's fees pursuant to Fed. R. Civ. P. 54(d)(2)(A). (*See generally* Docket Sheet). Although Plaintiff did file a proposed default judgment against Defendant, which included a proposal for attorney's fees totaling \$1,200 (at the rate of four hours at \$300 per hour), Plaintiff did not provide brief statements of the 12 factors outlined in LR 54-16(b)(3). (*See* Prop. Default Judg. (#19); *see generally* Docket Sheet). Further, Plaintiff filed no attorney affidavits to authenticate the amount requested in the proposed default judgment against Defendant, which justifies the denial of a motion for attorney's fees and costs. LR 54-16(d). Therefore, the Court denies Plaintiff's request for attorney's fees at this time. Plaintiff has 20 days from the date of this order to re-file a proper motion for attorney's fees and costs pursuant to Fed. R. Civ. P. 54 and Local Rules 54-1 through 54-16.

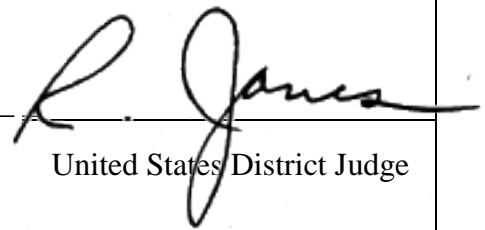
CONCLUSION

For the foregoing reasons, IT IS ORDERED that Plaintiff J&J Sports Productions, Inc.'s Motion for Entry of Default Judgment against Defendant Bonito Michoacan, Inc. Pursuant to Fed. R. Civ. P. 55(b)(2) (#18) is GRANTED in part and DENIED in part. The Court grants the

1 motion for a default judgment but denies the requested amount of damages at this time. The
2 Court directs Plaintiff to file a supplemental motion for default judgment within 20 days of this
3 order that provides the necessary proof and documentation for damages.

4 IT IS FURTHER ORDERED that Plaintiff has 20 days from the date of this order to file an
5 appropriate motion for attorney's fees and costs in accordance with Fed. R. Civ. P. 54(d) and
6 Nevada Local Rule 54-16.

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8 Dated this 16th day of September, 2013.

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11 United States District Judge
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